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In re Application of :
Chang et al. : DECISION ON PETITION
Application No. 10/064,258 :
Filed: 26 June, 2002 :
Atty Docket No. VIAP0038USA :

This is a response to the "Petition to Cancel a Duplicate Application" filed on 20 March, 2005.

The petition is granted.

Petitioner asserts that an error occurred while the instant application was being transmitted to the USPTO via the Electronic Filing System (EFS). Specifically, although petitioner discovered a typographical error in the application title and pressed the "cancel" button while sending the application, no Acknowledgement Receipt was received. Applicant subsequently corrected the error in the title and again sent the application by EFS. An Acknowledgement Receipt was then generated and received by applicant, indicating that one application had been received by the USPTO. However, petitioner later received two filing receipts, for Application Nos. 10/064,258 and 10/064,259. Petitioner states that he did not intend to file two applications, one of which (Application No. 10/064,258) incorrectly lists the application title, and states that since only one Acknowledgement Receipt was received, petitioner believed only one application had been filed. Petitioner further requests a refund of the filing fee for Application No. 10/064,258.

In view of the evidence presented, it is concluded that petitioner's clicking of the "cancel" button and non-generation of the first Acknowledgement Receipt evidences that petitioner

was misled by the USPTO software into filing two applications, and that the USPTO erred in processing two applications.

The application filing fee in Application No. 10/064,258 will be credited to counsel's deposit account.

This application is referred to the Office of Initial Patent Examination for closing of the file of application No. 10/064,258. Application No. 10/064,258 will no longer be an active serial number.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3231.

A handwritten signature in black ink, appearing to read "D. Wood", is positioned above the typed name.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions